

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOHN DOE and JANE DOE, :
individually and as the Natural Parents :
and Next Friends of Their Minor Child, : CASE NO. 08-CV-575
JAMES DOE, : JUDGE FROST
:
Plaintiffs, : MAGISTRATE JUDGE KING
:
v. :
:
MOUNT VERNON CITY SCHOOL :
DISTRICT BOARD OF :
EDUCATION, ET AL. :
:
:
Defendants. :

DEFENDANT/COUNTERCLAIMANT JOHN FRESHWATER'S SUPPLEMENTAL
RESPONSE TO PLAINTIFFS' FIRST SET OF INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant/Counterclaimant John Freshwater, in his personal capacity, by and through counsel, states his *supplemental* responses and objections to Plaintiff's First Set of Interrogatories.

GENERAL OBJECTIONS

1. Defendant/Counterclaimant John Freshwater, in his personal capacity, objects to the Interrogatories to the extent the Interrogatories require information reflecting conduct or circumstances prior to the 2007-2008 school year of the Mount Vernon City School District. Plaintiff has alleged the first cause of action accrued on December 6, 2007, and that Freshwater's conduct was violative through the remainder of the school year. Therefore, Interrogatories

requesting information regarding conduct or circumstances prior to December 6, 2007, or after June 1, 2008, seek information that is irrelevant and such Interrogatories are overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in determining whether or not Freshwater's conduct was violative.

2. Defendant/Counterclaimant John Freshwater, in his personal capacity, objects to the Interrogatories, and any implied or express instruction or direction in the Interrogatories that impose or seeks to impose burdens greater than those imposed by the Federal Rules of Civil Procedure.

3. Defendant/Counterclaimant John Freshwater, in his personal capacity, objects to the Interrogatories to the extent they seek disclosure of information protected under the attorney-client privilege, the work-product doctrine, or any other applicable privilege or immunity.

4. Defendant/Counterclaimant John Freshwater, in his personal capacity, objects to the Interrogatories to the extent they are overly broad, unduly burdensome, or not reasonably calculated to lead to the discovery of admissible evidence.

5. Defendant/Counterclaimant John Freshwater, in his personal capacity, reserves all objections as to the competence, relevance, materiality, admissibility, or privileged status of any information provided in response to these Interrogatories, unless specifically stated otherwise.

6. The following responses and objections are based upon information now known by Defendant/Counterclaimant John Freshwater, in his personal capacity, who has not yet completed discovery or preparation for trial in this action and therefore will supplement these responses and objections to the extent required by these Rules of Civil Procedure.

SUPPLEMENTAL RESPONSES AND OBJECTIONS

4. Identify each and every statement which you claim Plaintiffs made to defame you, as alleged in your Counterclaim.

ANSWER: Defamatory statements have been made, communicated and published in the investigative report compiled by HR On Call, various newspapers including the Columbus Dispatch and Mount Vernon News and by the testimony of plaintiff's during the state hearing. Defamatory statements have been listed below with Defendant/Counterclaimant Freshwater reserving the right to supplement.

"The cross burning happened during an 8th grade science class and it happened with a science machine that uses and electric shock to cause a burn. And, the teacher chose to burn the shape of a Cross onto John Doe's forearm."

"This teacher conducted a healing session at school where he asked that Satan be removed from a man who was a visitor of the school."

"He (Freshwater) said out loud, 'Satan be removed from this man.'"

"He (the boy) didn't know it would be a cross and he didn't know it was going to hurt."

"We are religious people, but we were offended when Mr. Freshwater burned a cross onto the arm of our child. This was done in science class in December 2007, where an electric shock machine was used to burn our child."

"It is about following rules," she said. "We follow the rules and we expect our children to follow the rules. Rules have been broken here."

"When Mr. Freshwater disagrees with teaching material based upon his own religious beliefs, he advises the students that, although he is forced to teach from the textbooks, the teachings are wrong or not proven according to the Bible,"

"These concerns had been going on for at least 11 years, and the school had not done anything."

"Mr. Freshwater burned a cross into their child's arm using a science machine that caused pain."

"Several Bibles were kept in Mr. Freshwaters' classroom displayed for the students, not his own personal use."

"Mr. Freshwater engaged in religious teaching including his own beliefs from the Bible."

"Mr. Freshwater engaged in prayer in FCA meetings contrary to the District's legal obligations for monitoring such organizations."

"Mr. Freshwater led a "healing session" during an FCA meeting."

“Mr. Freshwater violated the school’s permission slip policy.”

“Mr. Freshwater made statements about FCA members “being the saved ones” and gave them Bibles to distribute to other students.”

“They stated that their primary concern was that Mr. Freshwater appeared to be teaching students to defy the school and to disobey rules and this was contrary to what their son was being taught at home.”

“They stated the burn remained on their child’s arm for three or four weeks.”

“In the shape of a cross”

The statements and representations depicted in two pictures.

“Mr. Freshwater burned a cross into...arm using a science machine”

“Several Bibles are also kept in Mr. Freshwater’s classroom and are there as a display to his students, not for his personal use.”

“Mr. Freshwater teaches his own beliefs from the Bible in his eighth grade science class.”

“Where Mr. Freshwater disagrees with teaching material based upon his own religious beliefs, he advises the students that, although he is forced to teach from the textbooks, the teachings are wrong or not proven according to the Bible”

“Mr. Freshwater engages in prayer in FCA. He conducts prayers and also asks students to lead prayer.”

“Mr. Freshwater led a healing session.”

“He held his hands above the non-school speaker’s head, had students in attendance circle the man, holding hands and praying, and Mr. Freshwater removed satan from the man. Mr. Freshwater also conducted a prayer at this meeting.”

“Mr. Freshwater violates Mount Vernon’s permission slip policy.”

“Mr. Freshwater told his students that the permission slips are stupid and that he is breaking God’s law if he turns away children that do not have a permission slip.”

“Students are given Bibles in these meetings, by Mr. Freshwater, to distribute to other students as the school.”

“Mr. Freshwater has continued to teach religion in his classroom”

5. For each statement identified above, indicate where the statement was published or to whom it was spoken.

ANSWER:

WBNS10TV
WBNS10TV
Columbus Dispatch
Columbus Dispatch
Mount Vernon News
Mount Vernon News
Columbus Dispatch
Columbus Dispatch
HR on Call Investigative Report
HR on Call Investigative Report
HR on Call Investigative Report
HR on Call Investigative Report
HR on Call Investigative Report
HR on Call Investigative Report
HR on Call Investigative Report
HR on Call Investigative Report
HR on Call Investigative Report
Testimony of Zach Dennis
HR on Call Investigative Report
April 14, 2008 letter of complaint
April 14, 2008 letter of complaint
April 14, 2008 letter of complaint
April 14, 2008 letter of complaint
April 14, 2008 letter of complaint
April 14, 2008 letter of complaint
April 14, 2008 letter of complaint
April 14, 2008 letter of complaint
April 14, 2008 letter of complaint
April 14, 2008 letter of complaint

6. Identify and describe each and every document or thing you took out of your classroom at the Mount Vernon Middle School after April 1, 2008, indicating the date upon which each item was removed.

ANSWER: Objection. The Interrogatory is so overly broad as to imply Defendant/Counterclaimant Freshwater did or should have maintained documentation to support any answer he may provide.

Without waiving this objection, Defendant/Counterclaimant responds that he does not specifically recall removing anything from the classroom other than items that were routinely

removed such as personal items or items brought to and removed from the classroom on a daily or routine basis. *Such described items would include my wallet, my keys and pictures of my family. Also, I took out some cards students had given me.*

R. Kelly Hamilton

7. Identify each and every handout you have provided to your eighth grade science class over the past five years which was provided to the students in class but you required that the students return to you and not take home.

ANSWER: Objection. The Interrogatory is argumentative and speculative.

Without waiving this objection, Defendant/Counterclaimant responds that he does not specifically recall that he “required” any student to return any handout. *None.*

R. Kelly Hamilton

9. With regard to the device you identified in the above interrogatory, provide the names of each and every student for which you have applied a “Tesla coil” type advice to their person in all of your years at Mount Vernon Middle School.

ANSWER: Objection. The Interrogatory is so overly broad as to imply Defendant/Counterclaimant Freshwater did or should have maintained documentation to support any answer he may provide.

Without waiving this objection, Defendant/Counterclaimant responds that he does not specifically recall the name of all the students who participated in the science experiment through his “years at Mount Vernon Middle School”. If asked about a specific student, Defendant/Counterclaimant maintains he may remember their participation in the science experiment. *My kids, Jordan, Sarah and Luke. Justin Newlon, Zach Dennis, Ben Neilson.*

R. Kelly Hamilton

Respectfully submitted,

s/ R. Kelly Hamilton

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CERTIFICATE OF SERVICE

I hereby certify that on January 30, 2009, a copy of the foregoing was served to the following counsel via electronic mail and ordinary U.S. mail.

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R. Kelly Hamilton (66403)

VERIFICATION

I swear that the answers to the foregoing interrogatories are true to the best of my belief and knowledge.

John Freshwater

Sworn to before me and subscribed in my presence this ____ day of _____,
2008.

Notary Public